

1 A bill to be entitled
2 An act relating to reclaimed water; creating s.
3 403.8531, F.S.; providing legislative intent; defining
4 terms; providing that reclaimed water is a water
5 source for public water supply systems; providing
6 specified groundwater and surface water quality
7 protections for potable reuse projects; providing that
8 potable reuse is an alternative water supply and that
9 projects relating to such reuse are eligible for
10 alternative water supply funding; requiring the
11 Department of Environmental Protection to adopt
12 specified rules; requiring the department to review
13 reclaimed water and potable reuse rules and revise
14 them as necessary; requiring the department to review
15 aquifer recharge rules and revise them as necessary;
16 requiring the department to initiate rulemaking and to
17 submit such rules to the Legislature for ratification
18 by specified dates; requiring legislative ratification
19 of the rules; requiring the department and the water
20 management districts to develop and execute, by a
21 specified date, a memorandum of agreement for the
22 coordinated review of specified permits; providing
23 that potable reuse projects by private entities are
24 eligible for certain expedited permitting and tax
25 credits; providing construction; amending s. 403.064,

26 F.S.; prohibiting domestic wastewater treatment
27 facilities from disposing of effluent, reclaimed
28 water, or reuse water by surface water discharge;
29 providing exceptions; requiring the department to
30 adopt rules for the implementation of potable reuse
31 projects which meet certain requirements; requiring
32 the department to convene at least one technical
33 advisory committee for specified purposes; providing
34 for the composition of the advisory committee;
35 providing a directive to the Division of Law Revision;
36 providing a determination and declaration of important
37 state interest; providing an effective date.

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39 Be It Enacted by the Legislature of the State of Florida:

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41 Section 1. Section 403.8531, Florida Statutes, is created
42 to read:

43 403.8531 Potable reuse.—

44 (1) Recognizing that sufficient water supply is imperative
45 to the future of this state and that potable reuse is one source
46 of water that may assist in meeting future demands, the
47 Legislature intends for the department to adopt rules for
48 potable reuse which:

49 (a) Protect the public health and environment by ensuring
50 that the potable reuse rules meet federal and state drinking

51 water and water quality standards, including, but not limited
52 to, the Clean Water Act, the Safe Drinking Water Act, and water
53 quality standards pursuant to chapter 403, and, when possible,
54 implement such rules through existing regulatory programs.

55 (b) Support reclaimed water being used for potable reuse
56 purposes.

57 (c) Implement the recommendations set forth in the Potable
58 Reuse Commission's 2020 report "Advancing Potable Reuse in
59 Florida: Framework for the Implementation of Potable Reuse in
60 Florida."

61 (d) Require that the point of compliance with drinking
62 water standards for potable reuse projects is the final
63 discharge point for finished water from the water treatment
64 facility.

65 (e) Protect the aquifer and Florida's springs and surface
66 waters by ensuring that potable reuse projects do not cause or
67 contribute to violations of water quality standards in surface
68 waters, including groundwater discharges that flow by interflow
69 and affect water quality in surface waters, and that potable
70 reuse projects shall be designed and operated to ensure
71 compliance with groundwater quality standards.

72 (2) As used in this section, the term:

73 (a) "Advanced treated reclaimed water" means the water
74 produced from an advanced water treatment process for potable
75 reuse applications.

76 (b) "Advanced treatment technology" means the treatment
77 technology selected by a utility to address emerging
78 constituents and pathogens in reclaimed water as part of a
79 potable reuse project.

80 (c) "Direct potable reuse" means the introduction of
81 advanced treated reclaimed water into a raw water supply
82 immediately upstream from a drinking water treatment facility or
83 directly into a potable water supply distribution system.

84 (d) "Emerging constituents" means pharmaceuticals,
85 personal care products, and other chemicals not regulated as
86 part of drinking water quality standards.

87 (e) "Indirect potable reuse" means the planned delivery or
88 discharge of reclaimed water to groundwater or surface waters
89 for the development of, or to supplement, the potable water
90 supply.

91 (f) "Off-spec reclaimed water" means reclaimed water that
92 does not meet the standards for potable reuse.

93 (g) "Potable reuse" means the augmentation of a drinking
94 water supply with advanced treated reclaimed water from a
95 domestic wastewater treatment facility, and consists of direct
96 potable reuse and indirect potable reuse.

97 (h) "Reclaimed water" means water that has received at
98 least secondary treatment and basic disinfection and is reused
99 after flowing out of a domestic wastewater treatment facility.

100 (3) Reclaimed water is deemed a water source for public

101 water supply systems.

102 (4) Existing water quality protections that prohibit
103 discharges from causing or contributing to violations of water
104 quality standards in groundwater and surface waters apply to
105 potable reuse projects. In addition, when reclaimed water is
106 released or discharged into groundwater or surface waters for
107 potable reuse purposes, consideration of emerging constituents
108 may be required due to existing regulatory requirements, such as
109 antidegradation and discharge standards, as well as impacts to
110 other users of such groundwater or surface water.

111 (5) Potable reuse is an alternative water supply as
112 defined in s. 373.019, and potable reuse projects are eligible
113 for alternative water supply funding. The use of potable reuse
114 water may not be excluded from regional water supply planning
115 under s. 373.709.

116 (6) The department shall:

117 (a) Adopt rules that authorize potable reuse projects that
118 are consistent with this section.

119 (b) Review existing rules governing reclaimed water and
120 potable reuse to identify obsolete and inconsistent requirements
121 and adopt rules that revise existing potable reuse rules to
122 eliminate such inconsistencies, while maintaining existing
123 public health and environmental protections.

124 (c) Review aquifer recharge rules, and, if revisions are
125 necessary to ensure continued compliance with existing public

126 health and environmental protection rules when reclaimed water
127 is used for aquifer recharge, adopt such rules.

128 (d) Initiate rulemaking by December 31, 2020, and submit
129 the adopted rules to the President of the Senate and the Speaker
130 of the House of Representatives by December 12, 2022, for
131 ratification. Such rules are effective only upon ratification by
132 the Legislature.

133 (7) The department and the water management districts
134 shall develop and execute a memorandum of agreement providing
135 for the procedural requirements of a coordinated review of all
136 permits associated with the construction and operation of an
137 indirect potable reuse project. The memorandum of agreement must
138 provide that the coordinated review will occur only if requested
139 by a permittee. The purpose of the coordinated review is to
140 share information, to avoid the redundancy of information
141 requested from the permittee, and to ensure consistency in the
142 permit for the protection of the public health and the
143 environment. The department and the water management districts
144 shall develop and execute the memorandum of agreement by
145 December 31, 2022.

146 (8) To encourage investment in the development of potable
147 reuse projects by private entities, a potable reuse project
148 developed as a qualifying project pursuant to s. 255.065 is:

149 (a) Beginning January 1, 2025, eligible for expedited
150 permitting under s. 403.973.

151 (b) Granted an annual credit against the tax imposed by
152 chapter 220 in an amount equal to 5 percent of the eligible
153 capital costs generated by a qualifying project for a period not
154 to exceed 20 years after the date that project operations begin.
155 The tax credit applies only to the corporate income tax
156 liability or the premium tax liability generated by or arising
157 out of the qualifying project, and the sum of all tax credits
158 provided pursuant to this section may not exceed 100 percent of
159 the eligible capital costs as defined in s. 220.191(1)(c). Any
160 credit granted pursuant to this paragraph may not be carried
161 forward or backward.

162 (c) Granted a 3-year extension of any deadlines imposed
163 under s. 403.064(17).

164 (d) Consistent with s. 373.707, eligible for priority
165 funding in the same manner as other alternative water supply
166 projects from the Drinking Water State Revolving Fund, under the
167 Water Protection and Sustainability Program, and for water
168 management district cooperative funding.

169 (9) This section is not intended and may not be construed
170 to supersede s. 373.250(3).

171 Section 2. Subsection (17) is added to section 403.064,
172 Florida Statutes, to read:

173 403.064 Reuse of reclaimed water.—

174 (17) Notwithstanding any other provisions in this section
175 to the contrary, beginning January 1, 2026, domestic wastewater

176 treatment facilities may not dispose of effluent, reclaimed
177 water, or reuse water by surface water discharge, except that
178 this prohibition does not apply to indirect potable reuse
179 projects; domestic wastewater treatment facility discharges
180 during wet weather which occur in accordance with the applicable
181 department permit; discharges into a stormwater management
182 system which are subsequently withdrawn by a user for irrigation
183 purposes; domestic wastewater treatment facilities located in
184 fiscally constrained counties as defined in s. 218.67(1);
185 projects where reclaimed water is recovered from an aquifer
186 recharge system and subsequently discharged into a surface water
187 for potable reuse; wetlands creation, restoration, and
188 enhancement projects; surface water minimum flows and levels
189 recovery or prevention strategy plan projects; or domestic
190 wastewater treatment facilities located in municipalities that
191 are entirely within a rural area of opportunity designated under
192 s. 288.0656.

193 Section 3. (1) In implementing s. 403.8531, Florida
194 Statutes, as created by this act, the Department of
195 Environmental Protection, in coordination with one or more
196 technical working groups pursuant to subsection (2), shall adopt
197 rules for the implementation of potable reuse projects. The
198 department shall:

199 (a) Revise the appropriate chapters in the Florida
200 Administrative Code, including chapter 62-610, Florida

201 Administrative Code, to ensure that all rules implementing
202 potable reuse are in the Florida Administrative Code division 62
203 governing drinking water regulation.

204 (b) Revise existing drinking water rules to include
205 reclaimed water as a source water for the public water supply
206 and require such treatment of the water as is necessary to meet
207 existing drinking water rules, including rules for pathogens.
208 The potable reuse rules must include the implementation of a log
209 reduction credit system using advanced treatment technology to
210 meet pathogen treatment requirements, and must require a public
211 water supplier to provide an approach to meet the required
212 pathogen treatment requirements in an engineering report as part
213 of its public water supply permit application for authorization
214 of potable reuse. To ensure protection of the public health, as
215 part of the public water supply permit application to authorize
216 potable reuse, a public water supplier shall provide a
217 department-specified level of treatment or propose an approach
218 to achieving the log reduction targets based on source water
219 characterization that is sufficient for a pathogen risk of
220 infection which meets the national drinking water criteria of
221 less than 1 x 10⁻⁴ annually.

222 (c) Prescribe the means for using appropriate treatment
223 technology to address emerging constituents in potable reuse
224 projects. The advanced treatment technology must be technically
225 and economically feasible and must provide for flexibility in

226 the specific treatment processes employed to recognize different
227 project scenarios, emerging constituent concentrations, desired
228 finished water quality, and the treatment capability of the
229 facility. The advanced treatment technology may also be used for
230 pathogen removal or reduction.

231 1. The rules must require appropriate monitoring to
232 evaluate advanced treatment technology treatment performance,
233 including the monitoring of surrogate parameters and controls,
234 which monitoring must occur either before or after the advanced
235 treatment technologies treatment process, or both, as
236 appropriate.

237 2. For direct potable reuse projects, the rules must
238 require reclaimed water to be included in the source water
239 characterization for a drinking water treatment facility and, if
240 that source water characterization indicates the presence of
241 emerging constituents at levels of public health interest, must
242 specify how appropriate treatment technology will be used to
243 address those emerging constituents.

244 3. For indirect potable reuse projects, the department
245 shall amend the existing monitoring requirements contained
246 within part V of chapter 62-610, Florida Administrative Code, to
247 require monitoring for one or more representative emerging
248 constituents. The utility responsible for the indirect potable
249 reuse project shall develop an emerging constituent monitoring
250 protocol consisting of the selection of one or more

251 representative emerging constituents for monitoring and the
252 identification of action levels associated with such emerging
253 constituents. The monitoring protocol must provide that, if
254 elevated levels of the representative emerging constituent are
255 detected, the utility must report the elevated detection to the
256 department and investigate the source and cause of such elevated
257 emerging constituent. The utility shall submit the monitoring
258 protocol to the department for review and approval and shall
259 implement the monitoring protocol as approved by the department.
260 If the monitoring protocol detects an elevated emerging
261 constituent, and if the utility's investigation indicates that
262 the use of the reclaimed water is the cause of such elevated
263 emerging constituent, the utility must develop a plan to address
264 or remedy that cause. The utility's monitoring results,
265 investigation of any detected elevated emerging constituent
266 levels, determination of cause, and any plan developed to
267 address or remedy the cause must be submitted to the department
268 for review and approval.

269 (d) Specify industrial pretreatment requirements for
270 potable reuse projects. These industrial pretreatment
271 requirements must match the industrial pretreatment requirements
272 contained in chapter 62-625, Florida Administrative Code, as of
273 the effective date of this act. If necessary, the department
274 also must require the utility operating a potable reuse project
275 to implement a source control program, and the utility shall

276 identify the sources that need to be addressed.

277 (e) Provide off-spec reclaimed water requirements for
278 potable reuse projects which include the immediate disposal,
279 temporary storage, alternative nonpotable reuse, or retreatment
280 or disposal of off-spec reclaimed water based on operating
281 protocols established by the public water supplier and approved
282 by the department.

283 (f) Revise existing rules to specify the point of
284 compliance with drinking water standards for potable reuse
285 projects as the point where the finished water is finally
286 discharged from the drinking water treatment facility to the
287 water distribution system.

288 (g) Ensure that, as rules for potable reuse projects are
289 implemented, chapter 62-610.850, Florida Administrative Code, is
290 applicable.

291 (h) Revise the definition of the term "indirect potable
292 reuse" provided in chapter 62-610, Florida Administrative Code,
293 to match the definition provided in s. 403.8531, Florida
294 Statutes.

295 (2) The department shall convene and lead one or more
296 technical advisory committees to coordinate the rulemaking and
297 review of rules required by s. 403.8531, Florida Statutes. The
298 technical advisory committees, which shall assist in the
299 development of such rules, must be composed of knowledgeable
300 representatives of a broad group of interested stakeholders,

301 including, but not limited to, representatives from the water
302 management districts, the wastewater utility industry, the water
303 utility industry, the environmental community, the business
304 community, the public health community, and the agricultural
305 community, and consumers.

306 Section 4. To further promote the reuse of reclaimed water
307 for irrigation purposes, the rules that apply when reclaimed
308 water is injected into a receiving groundwater having 1,000 to
309 3,000 mg/L total dissolved solids are applicable to reclaimed
310 water aquifer storage and recovery wells injecting into a
311 receiving groundwater of less than 1,000 mg/L total dissolved
312 solids if the applicant demonstrates that there are no public
313 supply wells within 3,500 feet of the aquifer storage and
314 recovery wells and that it has implemented institutional
315 controls to prevent the future construction of public supply
316 wells within 3,500 feet of the aquifer storage and recovery
317 wells.

318 Section 5. The Division of Law Revision is directed to
319 replace the phrase "the effective date of this act" wherever it
320 occurs in this act with the date the act becomes a law.

321 Section 6. The Legislature determines and declares that
322 this act fulfills an important state interest.

323 Section 7. This act shall take effect upon becoming law.